

1                   A bill to be entitled  
2           An act relating to hiring, leasing, or obtaining  
3           personal property or equipment with the intent to  
4           defraud; amending s. 812.155, F.S.; providing that in  
5           a prosecution, the failure to redeliver property or  
6           equipment within a specified time after receiving a  
7           demand for return delivered by a courier service with  
8           tracking capability or by certified mail, return  
9           receipt requested, or within a specified time after  
10          delivery by the courier service or return receipt from  
11          the certified mailing of the demand for return, is  
12          prima facie evidence of abandonment or refusal to  
13          redeliver the property or equipment; providing that  
14          notice sent by delivery by courier with tracking  
15          capability to the address given by the renter at the  
16          time of the rental is sufficient and equivalent to  
17          notice having been received by the renter, if the  
18          notice is returned undelivered; providing that in a  
19          prosecution for failing to pay any amount due which is  
20          incurred as the result of the failure to redeliver  
21          property or equipment after the rental period expires,  
22          and after the demand for return is made, is prima  
23          facie evidence of abandonment or refusal to redeliver  
24          the property or equipment; providing that a demand for  
25          return of overdue property or equipment and for  
26          payment of amounts due may be made by courier service  
27          with tracking capability; providing that possession of  
28          personal property or equipment by a third party does

29 | not alleviate the lessee of his or her obligation to  
 30 | return the personal property or equipment according to  
 31 | the terms stated in the contract; providing an  
 32 | exception when the personal property or equipment was  
 33 | obtained without the lessee's consent; providing that  
 34 | a lessor of a vehicle that is not returned at the  
 35 | conclusion of a lease is entitled to report the  
 36 | vehicle as stolen to a law enforcement agency and have  
 37 | the vehicle listed as stolen on any local or national  
 38 | registry of such vehicles; providing an effective  
 39 | date.

40 |

41 | Be It Enacted by the Legislature of the State of Florida:

42 |

43 | Section 1. Section 812.155, Florida Statutes, is amended  
 44 | to read:

45 | 812.155 Hiring, leasing, or obtaining personal property or  
 46 | equipment with the intent to defraud; failing to return hired or  
 47 | leased personal property or equipment; rules of evidence.—

48 | (1) OBTAINING BY TRICK, FALSE REPRESENTATION, ETC.—

49 | Whoever, with the intent to defraud the owner or any person  
 50 | lawfully possessing any personal property or equipment, obtains  
 51 | the custody of the ~~such~~ personal property or equipment by trick,  
 52 | deceit, or fraudulent or willful false representation commits  
 53 | ~~shall be guilty of~~ a misdemeanor of the second degree,  
 54 | punishable as provided in s. 775.082 or s. 775.083, unless the  
 55 | value of the personal property or equipment is of a value of  
 56 | \$300 or more; in that case event the person commits violation

57 ~~constitutes~~ a felony of the third degree, punishable as provided  
 58 in s. 775.082, s. 775.083, or s. 775.084.

59 (2) HIRING OR LEASING WITH THE INTENT TO DEFRAUD.—Whoever,  
 60 with intent to defraud the owner or any person lawfully  
 61 possessing ~~any~~ personal property or equipment of the rental  
 62 thereof, hires or leases the personal property or equipment from  
 63 the owner or the owner's agents or any person in lawful  
 64 possession thereof commits ~~shall, upon conviction, be guilty of~~  
 65 a misdemeanor of the second degree, punishable as provided in s.  
 66 775.082 or s. 775.083, unless the value of the personal property  
 67 or equipment is of a value of \$300 or more; in that case event  
 68 the person commits ~~violation constitutes~~ a felony of the third  
 69 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 70 775.084.

71 (3) FAILURE TO RETURN ~~REDELIVER~~ HIRED OR LEASED PERSONAL  
 72 PROPERTY.—Whoever, after hiring or leasing ~~any~~ personal property  
 73 or equipment under an agreement to return ~~redeliver~~ the personal  
 74 property ~~same~~ to the person letting the ~~such~~ personal property  
 75 or equipment or his or her agent at the termination of the  
 76 period for which it was let, shall, without the consent of the  
 77 ~~such~~ person or persons knowingly abandon or refuse to return  
 78 ~~redeliver~~ the personal property or equipment as agreed, commits  
 79 ~~shall, upon conviction, be guilty of~~ a misdemeanor of the second  
 80 degree, punishable as provided in s. 775.082 or s. 775.083,  
 81 unless the value of the personal property or equipment is of a  
 82 value of \$300 or more; in that case event the person commits  
 83 ~~violation constitutes~~ a felony of the third degree, punishable  
 84 as provided in s. 775.082, s. 775.083, or s. 775.084.

85 (4) EVIDENCE.—

86 (a) In a prosecution ~~prosecutions~~ under this section,  
 87 obtaining the property or equipment under false pretenses;  
 88 absconding without payment; or removing or attempting to remove  
 89 the property or equipment from the county without the express  
 90 written consent of the lessor, is evidence of fraudulent intent.

91 (b) In a prosecution under subsection (3), failure to  
 92 redeliver the property or equipment within 5 days after  
 93 receiving the demand for return from a courier service with  
 94 tracking capability or by certified mail, return receipt  
 95 requested ~~receipt of~~, or within 5 days after delivery by the  
 96 courier service or return receipt from, ~~the certified mailing of~~  
 97 the demand for return, is prima facie evidence of abandonment or  
 98 refusal to redeliver the property or equipment. Notice mailed by  
 99 certified mail, return receipt requested, or delivery by courier  
 100 with tracking capability to the address given by the renter at  
 101 the time of rental is ~~shall be deemed~~ sufficient and equivalent  
 102 to notice having been received by the renter, should the notice  
 103 be returned undelivered.

104 (c) In a prosecution under subsection (3), failure to pay  
 105 any amount due which is incurred as the result of the failure to  
 106 redeliver property or equipment after the rental period expires,  
 107 and after the demand for return is made, is prima facie evidence  
 108 of abandonment or refusal to redeliver the property or  
 109 equipment. Amounts due include unpaid rental for the time period  
 110 during which the property or equipment was not returned and  
 111 include the lesser of the cost of repairing or replacing the  
 112 property or equipment if it has been damaged.

113 (5) DEMAND FOR RETURN.—Demand for return of overdue  
114 property or equipment and for payment of amounts due may be made  
115 in person, by hand delivery, ~~or~~ by certified mail, return  
116 receipt requested, or by courier service with tracking  
117 capability, addressed to the lessee's address shown in the  
118 rental contract.

119 (6) NOTICE REQUIRED.—As a prerequisite to prosecution  
120 under this section, the following statement must be contained in  
121 the agreement under which the owner or person lawfully  
122 possessing the property or equipment has relinquished its  
123 custody, or in an addendum to that agreement, and the statement  
124 must be initialed by the person hiring or leasing the rental  
125 property or equipment:  
126

127 Failure to return rental property or equipment upon  
128 expiration of the rental period and failure to pay all  
129 amounts due (including costs for damage to the  
130 property or equipment) are evidence of abandonment or  
131 refusal to redeliver the property, punishable in  
132 accordance with section 812.155, Florida Statutes.

133 (7) THIRD-PARTY POSSESSION.—Possession of personal  
134 property or equipment by a third party does not alleviate the  
135 lessee of his or her obligation to return the personal property  
136 or equipment according to the terms stated in the contract by  
137 which the property or equipment was leased or rented to the  
138 lessee, and is not a defense against failure to return unless  
139 the lessee provides the court or property owner with  
140 documentation that demonstrates that the personal property or

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141 equipment was obtained without the lessee's consent.

142 (8) REPORTING VEHICLE AS STOLEN.—A lessor of a vehicle  
143 that is not returned at the conclusion of the lease who  
144 satisfies the requirements of this section regarding the vehicle  
145 is entitled to report the vehicle as stolen to a law enforcement  
146 agency and have the vehicle listed as stolen on any local or  
147 national registry of such vehicles.

148 Section 2. This act shall take effect July 1, 2012.